

SENATE JUDICIARY  
COMMIT NO. 1  
DATE 3/31/09  
BILL NO. HBS74

Molly Jane Kirk  
227 E. Olive Street  
Bozeman MT 59715

31 March 2009

Chairman Gary Perry  
Esteemed Members of the Senate Judiciary Committee  
Montana State House  
Helena MT

Re: House Bill 574 – Revise Burglary Statute

Dear Chairman Perry and Members of the Committee:

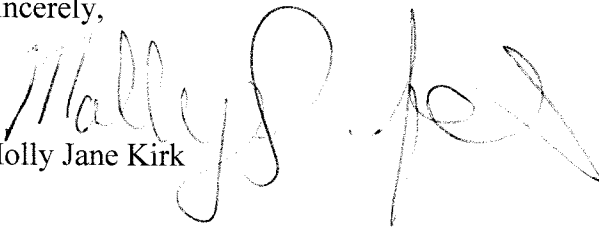
Thank you for the opportunity to present this testimony in support of revising the burglary law. I was assaulted in my room last November by a strange man who entered our home without permission through an unlocked door and climbed into my bed. I woke to find him pushing me over in the bed and touching me inappropriately through the blankets. This individual not only violated my personal space, in the form of trespassing on my family's property, but also violated ME in the form of sexual assault.

This crime has had an important effect on my life, but under current laws it is only considered a misdemeanor. The police weren't sure they could charge this man with felony burglary, because he was too drunk for them to determine whether he had intended to assault me or not. Several officers debated this, but in the end, they believed it was too hard to prove his intent. The thing is, the intent of this man doesn't change the effect his assault had on me. It doesn't matter whether he meant to assault me before he entered our house or whether he just had a bad idea after he entered – at least, not to me. Now, I lock every door before going to bed, often returning to check them later on in the night. I also worry when I fall asleep without the blinds shut and all the lights off. I am also afraid to walk home alone at night from my aikido dojo (which is three blocks away from my house), and often find myself in a more alert state than ever before. Before this happened, I thought I could trust in the safety of my small home town of Bozeman, yet I now know that is not entirely true. The sexual assault has affected me most of all. This has shown itself to me in the form of recurrent day dreams and nightmares of this man returning to my house and harming me, most often with a gun. It was scary and inappropriate, and I feel honestly that no 17 year old deserves to live a life constantly scared of what could have happened and what could happen in the future.

I want this man (and others like him) to know that it is NOT in any way, shape or form appropriate to enter into someone else's house, or when inside, for him to get anywhere near people in that house. Above all, I do not want someone like this man to do this to

any other girl. Our laws should protect me from this type of assault, and thus the burglary statute should not depend on the ability of police to read the criminal's mind. If he broke into my home and assaulted me, or committed some other crime in our house while we were sleeping, he should be held accountable at a level beyond misdemeanor trespass and misdemeanor sexual assault. The consequences of his action are much more severe than if someone simply stumbled into the wrong house and fell asleep on our porch and he should receive greater supervision and more punishment than is provided under the misdemeanor statute. Revising the burglary law to include situations where the police can't determine the intent of an individual, but can prove that a crime was committed while the individual was trespassing, would make things safer for us all.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Molly Jane Kirk', written in dark ink. The signature is fluid and somewhat stylized, with a large loop for the 'M' and a long, sweeping tail for the 'K'.

Molly Jane Kirk